

### **REMARKS/ARGUMENTS**

This Reply is in response to the Office Action mailed on June 15, 2006. Claims 1, 2 and 8-14 remain in this application. Reconsideration of the above-identified application, in view of the above amendments and the following remarks, is respectfully requested.

Claims 1, 4, 5, 8, 9-12 and 14 stand rejected under 35 U.S.C. 102(e) as being anticipated by US 2005/0055009 to Rosenberg et al ("Rosenberg").

Claims 2 and 3 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenberg in view of U.S. Patent No. 3,170,483 to Milroy ("Milroy").

Claims 1, 4, 5 and 8-13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,615,691 to Hakim ("Hakim") in view of U.S. Patent No. 4,148,460 to Kinsler ("Kinsler"). The Examiner maintains that Hakim teaches a cerebrospinal fluid shunt having an adjustable valve 14. The Examiner admits that Hakim fails to teach a resistance system having a circular set of passages of varying resistance to flow. Kinsler, according to the Examiner, teaches a multi-port fluid flow control valve with a flow control device comprising a circular disk 33 and a series of openings 29 of varying cross-sectional area by allowing a user to select the desired resistance by rotating disk 33 to align the desired jet 29 with the outlet passage 27. The Examiner concludes that it would have been obvious to one of ordinary skill in the art to substitute Kinsler's adjustable valve for Hakim's valve to minimize wear and tear on the valve.

Claims 2 and 3 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,615,691 to Hakim ("Hakim") in view of U.S. Patent No. 4,148,460 to Kinsler ("Kinsler") and further in view of U.S. Patent No. 3,170,483 to Milroy ("Milroy"). The Examiner is relying on Milroy for the teaching of a regulator valve with an inlet 70, outlet 72, and a flow regulator 74. The Examiner also states that the throttling means comprise a series of tubes 62 that traverse the axis of the valve housing 80. The Examiner states that variations in both length and diameter of tubes 62 provided varying resistance to flow through the tubes, and refers to column 5, lines 40-65, Figure 6 of Milroy's disclosure. The Examiner concludes that it would have been obvious to alter fluid resistance through the passages of the Hakim device as modified by Kinsler's teachings to further vary the diameter or length of the passages based on Milroy's teachings.

Claim 14 stands rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,615,691 to Hakim ("Hakim") in view of U.S. Patent No. 4,148,460 to Kinsler ("Kinsler") and further in view of U.S. Patent No. 6,264,625 to Rubenstein et al ("Rubenstein").

Independent claims 1, 11 and 14 have been amended to make it clear that only one passage across the valve is selected at a time. Also, these claims have been amended to essentially include the limitation of original claim 3 to recite that the set of passages each have an identical internal diameter, but a different length. The passages form a set of passages parallel to each other and to the axis of the body, with the openings of the passages

facing the rotational path of the passage of the selecting means/device, the body of essentially cylindrical shape comprising on its one end a recess of helicoidal shape, on the surface of which the passages depart, in order to obtain different lengths of the passages. Such a structure is neither taught nor suggested by the prior art of record.

The Examiner relies on Milroy to reject claim 3. The Examiner states that Milroy discloses a flow regulator that has a throttle means comprised of a series of tubes 62 that traverse the axis of valve housing 80. Variations in both the length and diameter of the tubes 62 provide varying resistance to flow through the tubes. The passage pointed out by the Examiner in Milroy states that "such a throttling means approaches a throttling process of constant enthalpy." Thus, it is clear that the Milroy's structure should not be modified otherwise the throttling means would not be a process of constant enthalpy.

Milroy uses a plurality of paths or passages 86 in block 84 that are made of a plurality of laminations. Milroy's tubes 62 are used in the embodiment of Figures 1-4. However, in either embodiment, the flow of fluid must go through multiple passages at the same time to create a throttling means of constant enthalpy. This is in direct contrast with the present invention, where the fluid flow is guided to *only* one *selected* passage to select the desired resistance of the valve within the recited range of 0 - 50 mm Hg/ml/min. In addition, the set of passages each have an identical internal diameter, but a different length. The body of essentially cylindrical shape passages comprises on its one end a recess of helicoidal shape, on the surface of which the passages depart, in order to obtain different lengths of the passages.

None of the cited references, not Rosenberg, not Milroy, not Hakim, not Kinsler, nor Rubenstein teach or suggest such a structure. Thus, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

By: /Eugene L. Szczecina, Jr./  
Eugene L. Szczecina, Jr.  
Reg. No. 35,029

Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933-7003  
(732) 524-1479  
Dated: December 15, 2006